App F IX-4

Previous References

1953-54 (C M)

File No 66-53-

Serial Nos 6, 7

Later References

Cut 6 & CMC 57

class - B

MYSORE GOVERNMENT SECRETARIAT

Serial Nos 2

P 30(E)

Part B for February 1954

SUBJECT

Recovery of Mohatarfa Taxes in respect of buildings in Nazarbad and Lashkar Mohallas now under the Control of the Cantonment Executive

WD 04867—GPB—9 000—11 1 54

The Municipal Commissioner Mysore (through the Pres. dewk)

L 15000/ Dated 13 2 54

~~Forwarded~~ States that the taxes may be claimed

Mohalarfa tax due to Mysore City Municipality in respect of certain buildings App F III-1 under the Control of the Garrison Engineer)

General and Revenue Secretariat — File No — of 1945

Serial No

From -

The Municipal Commissioner,
Mysore

Yellow No. CR 199/53/A Dated 30.6.53 — Requesting that the Govt of India may be moved to instruct the Garrison Engineer, Mysore, to pay the Mohalarfa tax due to the Municipality in respect of buildings occupied by them in Nazarbad and Kachhari Mohallas

(1) The letter from the Municipal Commissioner, Mysore, is forwarded

(2) The buildings in question were liable to Mohalarfa taxes when they were occupied by the Mysore Horsed Afterthe integration of the State forces with the Union Army, the payment has been refused by the local Defence Authorities — the Garrison Engineers the ground on which the payment is now refused is stated to be the Govt of India, Ministry of Defence letter No. 161/6193/D/49 D 10.10.49 Copy of the Govt of India letter is forwarded. In the circumstances narrated in the letter, the Municipal Commissioner may — requested that the Govt of India may be addressed to instruct the Garrison Engineer to pay up the amount-

P.T.O

Payment of Profession tax due to Mysore City Municipality in respect of certain buildings occupied by the Garrison Engineer, Mysore

File No 2 of 195

General and Revenue Secretariat

Serial No 2348

(3) The point for consideration in the file is whether the buildings in question are liable to Municipal taxation or not Notwithstanding anything contained in the Defence of India Rules 10 to 49 cited in the Previous para, Clause (2) of the Article 285 of the Constitution entitles the Municipality to continue to levy this tax as it was being levied immediately Prior to the commencement of the Constitution and continues to be levied even now

(4) The Mysore City Municipalities Act also does not provide for the exemption of the properties of the Central Government without which the liability of the buildings to this tax ought to continue under Clause (2) of Article 285 of the Constitution referred to above It therefore appears that the Stand taken by the Garrison Engineers in withholding the payment Solely relying on the letter of 10 to 49 of the Definition of Defence is not quite correct

(5) It is for consideration and orders if the matter may be taken up with the Govt of India after consulting the Law Secretariat on the legal position as noted above.

(6) The Law Secy may kindly be requested to offer his opinion whether the Stand taken by the Garrison Engineer is in order (Sd) [illegible]

22/7 [illegible] 22/7/53

24 JUL 1953

DEPARTMENT

WD 01404—GBB 40 000—18 10- 2

Recovery of Municipal Taxes in respect of buildings Nazirabad and Lakhkar Mohallas now under the control of the Garrison Engineer [App I 111 2

General and Revenue Secretariat

File No 2348/02 of 1953 WD 02201—GPB—10 000—7 1 53

Serial No 2661

Law

SECRETARY TO GOVERNMENT WD 2 J 1953 LAW DEPARTMENT

for fo remarks

Law Secy) 25/7

7) It is not clear from the file whether the buildings in question are at present the property of the Union or whether they still continue to be the property of the State If they are of the latter case, whether they are used for residential purposes Information is also necessary whether the Garrison Engineer referred to by the Municipal Committee is a Govt of India officer

The Home Secy may kindly furnish the above information

30/7/53 30/7

Law Secy) 30/7

8) Secretary (L & SG) 30/7/53

1/8

SECRETARY TO GOVERNMENT 3761 -1 AUG 1953 LAW DEPARTMENT

9) The buildings are the property of the Union from 1-4-50, the date of 7 7 I They are used for residential purpose The Garrison Engineer is an officer of the Indian Army - Govt of the Govt

SECRETARY TO GOVERNMENT 4161 3 AUG 1953 LAW DEPARTMENT

Law Secy) 1/8/53

NOTE—Contn Sheet

Recovery of Mohalarp taxes in respect of buildings in Nazarabad and Lakkar Mohallas now under the Controll of the Garrison Engineer

File No 2348/Re 4 of 19 | General and Revenue Secretariat

Serial No

10 Under Art 285(1) of the Constitution the property of the Union is exempt from all taxes imposed by a State or by any authority within a State save in so far as Parliament may, by law, otherwise provide Sub-clause (2) thereunder provides that until Parliament by law otherwise provides nothing in cl 1 shall prevent any authority within a State from levying any tax on any property of the Union to which such property was immediately before the commencement of the Constitution liable or treated as liable so long as that tax continues to be levied in that State In the present case, sec 64 of the City Municipalities Act does not provide any exemption from payment of the tax in question in respect of Union property except as provided in sec 64 proviso (a)(1) The ~~property~~ Tax, it is stated, ~~was paying the taxes~~ was being paid in question prior to integration and is therefore, in the absence of any specific provision of exemption in the City Municipalities Act itself, or in the absence of any parliamentary law as mentioned in sub-cl (1) of Art 285, ~~liable to pay~~ has to be paid the municipal tax

11 The question for consideration is whether the Garrison Engineer Buildings in Mysore City which now admittedly belong to the Union Govern ent can be exempted from payment of municipal tax Art 285 of the Constitution is as follows -

(1) "The property of the Union shall, save so far as Parliament may by law otherwise provide, be exempt from payment of taxes imposed by a State or by any authority within a State

(2) Nothing in clause (1) shall, until Parliament by law otherwise provides, prevent any authority within a State from levying a tax on any property of

SECRETARY TO GOVERN 4 APR 1958 LAW DEPARTMENT

Submitted for Law Secy's Opn

Serial No

the Union to which such property was immediately before the commencement of this Constitution liable or treated as liable so long as that tax continues to be levied in that State "

Proviso to sec 64 of the City Municipalities Act is as follows -

Provided that --

(a) No tax imposed as foresaid other than special saritary cess or water rate shall, without the express consent of the Goverrment, be leviable in respect of --

(i) any building or part of any building belonging to the Covernment and used solely for public purposes and not used or intended to be used for residential purposes or for purposes of profit

Practically, the entire question has to be decided with reference to Art 285 of the Constitution and proviso to sec 64 of the City Municipalities Act referred to above The Municipal Commissioner, in his letter dated 30th June 1953 (P U D) has stated as follows -

"The Municipal as essment in respect of the above properties were being regularly paid by the Commandant, Mysore State Forces till two years back The ysore State orces were merged with the Indian Army with effect from 1-4-1951 "

According to cl (2) of Art 285 of the Constitution, until Parliament by law otherwise provides, tax could be collected in respect of buildings of this type inasmuch as tax has been previously collected and as no law seems to have been so far passed by the Parlia-

Recovery of Mohatarfa taxes in respect of buildings in Nazarabad and Lakkar Mohallas now under the control of the Garrison Engineer 2661/Law

File No 2348/me 6 6025/Wl' of 19

Mysore Government Secretariat

Serial No

Parliament to the contrary Again, even according to proviso to sec 64 of the City unicipalities Act, exemption could be given only in respect of those buildings belonging to Government which are used solely for public purposes, and according to this proviso, tax could be collected in respect of buildings which are used for residential purposes It is stated by the Administrative Secretariat that the buildings in question are used for residential purposes In the circumstances, both in the light of cl (2) of Art 285 of the Constitution and the proviso to sec 64 of the City Municipalities Act, taxes can be levied on the buildings ~~of others type~~ in question

7691 12 1952

MYSORE LAW AFFAIRS 7 DEC 1953 LAW BR

Secretary - R S G) 7/12/53

12) The above opinion of the Law Secy will be communicated to the Comr

12/12

Minister for R S G 13) 19/12/53

21/12

14) A draft to the Comm's for consideration

15) Pl incorporate Para 11 in the above & put up a typed draft

RS 4/1 Sec 6/1/54

16) A typed draft for signature Secy (Retd) 17) 18/1/54

Sec 12/1

OFFICE OF THE MINISTER FOR PUBLIC HEALTH TOWN SELF GOVERNMENT 1 1 3 No 4199

SECRETARY TO GOVT MEI 21 DEC 1952 DEPARTMENT

Mysore Government
Secretariat

2348 60/PL Recovery of Motor Taxes
or Rent of buildings in Nagarkoil
File No 1 Letter of 195 Motors
66/53-7

WD 03547—CPB—40 000—14 8 3

Serial No

18) These buildings have recently been handed back to Mysore Govt by the GOI ? Would that change the position ? Examine

GP
28/1
28/11

19) The taxes are payable either by the Govt of the buildings are intended to be used for residential purpose Exemption from taxes applies only when a building belonging to Govt is used solely for public purposes (Vide Proviso to Sec 64 City Municipalities Act) The point refer relates to the payment of taxes by the Garrison Engineer when the buildings were under his control
A reply is to be given to the enquiry that the taxes are recovered from the Garrison Engineer, on the basis of the opinion furnished by the Law Secretary

RS 29/1 29/1

20) 11/2

Secy Advt

21) Issue soon

GP
10/2
11/1
11/2

Issued Rs 15000 5/3 Tel by Sd to the enquiry

B 15/2

NOTE—Contn Sheet

Sent 19/2

No C2 C R 199/53-54
Encls 2

GENERAL & SECRETARIAT
2348
8 JUL 1953
MUNICIPAL BRANCH

City Municipal Council
P B No 17

Mysore Dated 30th June, 1953

SECRETARY TO GOVT.
6 JUL 1953
L S G DEPARTMENT

From

THE MUNICIPAL COMMISSIONER
City Municipal Council
MYSORE

To

The Secretary to Government,
L S G and Planning Departments,
Bangalore 1

(Through the President)

C M 66-53-6

SIR

Subject - Recovery of Conservancy Taxes in respect of buildings in Nazarbad and Lashkar Mohallas now under the control of the Garrison Engineer

---

I write to state that as many as 116 dwelling houses bearing D Nos 1402 to 1426 and 1426 B in Nazarbad Mohalla were the property of Government of Mysore and in the occupation of Mysore State Forces The Municipal assessment in respect of the above properties were being regularly paid by the Commandant, Mysore State Forces till two years back The Mysore State Forces were merged with the Indian Army with effect from 1-4-1951 Whether the buildings in question also became the property of Central Government is not known to this office Anyway the bills sent to the Supervisors in charge for the year 1951-52 and 1952-53 were received back from the Garrison Engineer, Bangalore with the reply (his No 2008-2066 dated 27-11-1952) that as "no tax was being paid by Government of India prior to 1-4-1937 for the buildings as per letter No 161/4193/D/49 dated 10-10-1949' (copy enclosed)

While under Art 283(1) of the Constitution of India, "the property of the Union shall save in so far as the Parliament may by law otherwise provide, be exempt from all taxes imposed by a State or by any authority within a State, under Art 285(2)

ibid, Nothing in clause (1) shall until Parliament otherwise provides prevent any authority within a State from levying any tax on any property of the Union to which such property was immediately before the commencement of the Constitution liable or treated as liable so long as that tax continues to be levied in the State "

Further according to Sec 64 proviso a(i) of the Mysore City Municipalities Act of 1933, Government buildings, not used for residential purposes or for purposes of profit can be taxed only with the express consent of Government Residential quarters, therefore even if they are Government buildings are liable to tax The houses in question are residential quarters

The authority under which the Garrison Engineer seems to act - viz , the letter dated 10-10-1949 referred to in his letter dated 27-11-1952 adverted to in I para of this letter is only a departmental communication and has not the sanction of legislature Besides the letter admits liability to payment of taxes in case they are were subject to taxation prior to 1-4-1937

The Council before whom the entire question came up for consideration at their meeting held on 29-5-1953 have therefore resolved to approach the Government to have the question taken up with Central Government in the interests of Municipal revenue, in as much as there are similar refcrences received from other Central Government Departments

I enclose a copy of the resolution and request you kindly to move the Government in this behalf

Yours faithfully,

(N Lakshman Rau)
Municipal Commissioner

Forwarded with compliments

(T Venkataramaniah)
President

PROCEEDINGS OF THE ORDINARY MEETING OF THE CITY MUNICIPAL COUNCIL HELD ON FRIDAY THE 29th MAY 1953 at 4 P M IN THE MUNICIPAL OFFICES

---

199 Legal Committee resolution No 12/1-5-1953 opining on the subject regarding the recovery of Mohatarfa taxes on buildings in Nazarbad and Lashkar Mohallas under the control of the Garrison Engineer that the matter is a question in which the State Government has to ~~tk~~ take up with the Central Government as the Garrison Engineer has taken a definite stand regarding the nonpayment of taxes and as it is learnt that similar references are also received from other Central Government Departments, recommending that the Council might ~~have~~ move the State Government to take up the question with the Central Government

APPROVED

Sd T Venkataramaniah,
PRESIDENT

Copy

Municipal Commissioner

snr

TEL AGRAM 531

No 2008/2066/Bks 4
Garrison Engineer's office,
Bangalore, Nov 1952

To The Commissioner,
Mysore City Municipality

Subject Taxes

Ref Your No R 7 GB No 2/52-53 dated 18-11-1952

As no tax was being paid by the Government of India prior to 1st April 1937 for the buildings vide para 1 (d) of G of India Min of Def letter No 161/4193/D/49 dated 10-10-1949 (copy enclosed) your bill for Rs 7307-0-8 in triplicate is returned herewith unpassed

Sd xx xx

B S O
For Garrison Engineer

Copy

For Municipal Commissioner

5

Copy of Hq Southern Command letter No 5209 Q3 of 15 Dec 1949 addressed to Hq Madras Area

---

Subject Liability for payment of Municipal taxes on Military property

---

Reference your No 08353 Q3 dated 14th October 1949

---

1 The Government of India have now decided that the local taxes on the Central Government properties will be paid on ~~permits~~ merits of each case with due regards to the following points -

(a) whether the property sought to be taxed, vested in Central Government before 1st April 1937

(b) If any further building have been constructed on the same plot subsequent ~~before~~ to 1st April 1937

(c) Whether any improvements have been made to the old property subsequent to 1 Apr1 1937

(d) Whether the tax now claimed is the same which if at all was being paid prior to 1st April 1937

2 The Government of India accept the liability of such taxes only as were being paid from before 1st April 1937, in respect of only such building which existed as Government Buildings before that date The Government of India further maintain that the Central Government is not liable to pay any enhanced rate of any tax that was being paid by the Government from 1st April 1937 in respect of any building nor the Government of India are liable to pay taxes in respect of improvement additions to the buildings which existed on 1st April 1937 ~~in respect of any building~~ and on which the taxes were being levied

(Authority Government of India inistry of Defence No 161/4193-D/49 dated 10th October 1949)

Tel 80737 Ex 30
-

No 08352 Q3
Hq Madras Area
Madras 16
1 Aug 1951

Hq Bangalore Sub Area
Hq Avadi Base
Adm Comd Madras
OC Sta Vizag
OC Sta St Thomas Mount

Subject Liability for payment of Municipal taxes on Military property

Reference above

1 Please ensure that no overpayment of taxes on Central Government buildings has been made to the Municipalities in the light of the decision contained above This action is required with a view to obtaining refund of overpayments if any already paid and also regulating future payments of taxes in conformity with the provisions of Hq Southern Command letter cited above

2 It is vital 6 the special steps are taken to effect recovery of taxes (Municipal and local) paid otherwise than Hq Southern Command letter quoted above for speedy settlement of overpayments made

3 Please bring this to the notice of all concerned

Sd/- xx xx
A A and Q M G
(Lt Col G K ANDHART)

Copy to CWE Madras
C WE Bangalore
C WE Cochin
A L E & D O Madras "

"True Copy"

Sd xx
B/ orderS O
For Garrison Engineer, Bangalore)

For the personal attention of Head of Office

Number 22701/ 128 /E 2,
Office of the C W E Bangalore,
Dated 4th August 1951

To GE Bangalore
GE Jalahalli
GE Coimbatore (2) - (1 for CCE W'ton)
BO Jalahalli
BO Coimbatore
BO Bangalore
Subject Liability for payment of Municipal taxes on Military property

A copy of Hq Madras Area Number 08352 Q3 dated 1-8-1951 together with He Southern Command and No 5209 Q3 of 15-12-1949, is forwarded herewith for compliance

It is vital that special steps should be taken immediately

This letter will be brought to the personal attention of the Head of office

Please acknowledge

Sd/- xx
For Commander, Works Engineer,
Bangalore,
(Shri T S Subramaniam - SBO-Tel 247 Ext 38)

Copy

For Municipal Commissioner

No C2 CR 199/53-54

Encls

GENERAL & PUBLIC SECTION 6025 28 DEC 1953 MUNICIPAL BRANCH

CITY MUNICIPAL COUNCIL
P B No 17
Mysore Dated 22nd December 1953

FROM

THE MUNICIPAL COMMISSIONER
City Municipal Council
MYSORE

CRL FAI 24 DEC [illegible] PARTMENT

To

The Secretary to Government,
L S G & Planning Departments,
Bangalore-1

Sir,

Subject Recovery of Mohatarfa taxes in respect of Buildings in Nazarbad and Lashkar Mohallas now under the control of the Garrison Engineer

---

I write to invite your kind reference to this office letter No C2 CR 199/53-54 dated 3-7-1953 regarding the subject mentioned above A similar question is also pending relating to payment of mohatarfa taxes by Government by the Railway Department A reference in this behalf has also been made to the Secretary to Government, Law Department pointing out the propriety of the Municipality levying the taxes (copy of the letter is enclosed for favour of perusal) Similar arguments could be advanced by the Municipality in this case also In view of these circumstances, I request you kindly to take the matter up with the Union Government to enable us to recover the heavy arrears

2348/AS/6/1/54 The Main file before the US Enclose this to the file AS 9/1 8/2 9/1

Yours faithfully,

(N Lakshman Rau)
MUNICIPAL COMMISSIONER

Forwarded with compliments,

T Venkataramaniah
(T Venkataramaniah)
PRESIDENT

PSK

8

No _____
Encls

CITY MUNICIPAL COUNCIL
P B No 17

Mysore *Dated* 14-12-1953.

FROM

THE MUNICIPAL COMMISSIONER
City Municipal Council
MYSORE

To

The Secretary to Government,
Law Department, Bangalore
(Through the President)

Sir,

Subject: Exemption from payment of Municipal Taxes from 1-6-1951 in respect of Railway Buildings

I write to invite your kind reference to this office letter No C2 PR 51-52 dated 21-9-1951 regarding the subject mentioned above In the said letter it has been mentioned that taxes were being paid by the Mysore Railway Department before the State Railways were integrated with the Southern Railways The annual payment in respect of of railway buildings is Rs ~~16,094-9-3~~ 12 075 10 10 and the amount due from the Railways up to the end of 1952-53 were Rs 51177-13-5. The matter has been under correspondence also with the Railway Department for a number of years In this connection the then Commissioner convened a meeting on 6th October 1950 at which were present the Municipal Commissioner, the Chief Engineer, District Engineer and Audit Superintendent of the former Railways and the Revenue Officer of the Mysore City Municipality A copy of the minutes of the meeting is enclosed In the Minutes, in the penultimate para,- it has been mentioned that the Municipal Commissioner would examine the counter-claims put forward by the Railway Department While on the one hand the Municipality has been claiming mohatarfa taxes, the Railways have been putting forth certain counter claims and according to them, the Municipality owes the Railway Department a sum of Rs 1,13,509/- as on 31-3-1953 A copy of the letter No A 202/2/Mys 146 dated 31-3-1953 received from the Regional Engineer, Southern Railways in this behalf is also enclosed

2 The point for consideration really seems to be whether the Railways can put forward such counter claims at all. In Mysore, we were governed by the Mysore Railway Act till the Indian Railway Act

was made applicable Section 117 of the Mysore Act corresponded to Sec.135 of the Indian Act Under Sec 117(1) of the Mysore Railways Act, Notification No RS 1874-83 dated 2-3-1929 was promulgated laying down that the Mysore Railways shall be liable to pay in respect of the buildings belonging to or under the management of the Mysore State Railway department, taxes imposed by the Municipal Councils within their respective limits, in aid of the funds of the Municipal Councils concerned Later, the Government of Mysore appointed Sri B T Kesaviengar, the then Deputy Commissioner, Mysore, to fix the taxes payable by the Mysore Railways He passed an award dated 1-4-1936 fixing the taxes payable According to this award, the Railway Department should pay a tax of Rs 4,000/- The levy of drainage cess at ½% is limited only to those cases where drainage facilities exist and the levy of special sanitary cess cannot be exempted according to this award In the course of the same award, the Deputy Commissioner has pointed out "the fact that the Railway Department are in a position to make their own arrangements for the maintenance of their latrines and for the removal and disposal of refuse cannot be a ground for exemption, when the Municipal Council have framed no rules for recognising such exemptions." On 20th June 1947, the then Deputy Commissioner, Sri G.N.Nagaraja Rao passed another award that in respect of the new Railway Offices, the mohatarfa taxes payable shall be at Rs 2250/- p.a. and that on this line municipality is entitled to levy drainage cess etc , as per rules and finally ordered that the Railway Department will have to pay to the municipality Rs 5700/- per annum exclusive of the cesses as against Rs.4000/- fixed by Sri B T Kesava Iyengar So these were the awards which governed the payment of taxes by the Railway Department to the Municipality till the date of integration

3. By Part "B" States Laws Act of 1951 which came into force on 1-4-1951, certain central Acts were extended to Part"B" States The Indian Railways Act was one of such acts By

Section 6 of the Act, the Mysore Railways Act was repealed But the proviso to that section preserves certain rights and liabilities accrued under the Repealed Act Under the Repealed Mysore Act and in pursuance of the liability to pay taxes fixed in accordance with the awards of the Deputy Commissioner, a right to claim the tax has accrued to the Mysore City Municipality and there was a corresponding liability on the part of the Railways to pay the taxes. The Railway Department at one stage (letter dated 7-6-1951 copy enclosed) even stated that they were not liable to pay any taxes at all with effect from 1-4-1950 as Railway administration is not liable to pay any taxes in aid of the funds of any local authority from that date, as buildings belonging to Government of India are exempt from any taxes From the wording of this, it could be seen that this is based on the provisions of Art 285(1) of the Constitution and Sec 135 of the Indian Railways Act and Sec 3 of Railways (local Authorities Taxation Act, 1941) It is true that after integration, as contemplated by Sec 135(1) of the Indian Railways Act and Sec 3 of Act of 1941 no notification in the official gazette has been published by the general controlling authority, declaring the Railway administration in Mysore as liable to pay the taxes But in our opinion inspite of the existence of Sec.135(1), it cannot over-ride the saving clause contained in the proviso to Sec 6 of the Part 'B' States (Laws) Act of 1951 Further, Art 285(2) of the Constitution lays down "nothing in clause (1) shall, until Parliament, by law, otherwise provides, prevent any authority within a State from levying any tax on any property of the Union to which such property was immediately before the commencement of this Constitution, liable or treated as liable, so long as that tax continues to be levied in that State " This view finds support, in a letter received from the Government of India, Ministry of Finance (Department of Economic Affairs) - letter No 14(3) P.53 dated New Delhi, 8th October 1953, which specifically refers to the payment of local and Municipal taxes on Central

Government properties. In the course of this letter, the Deputy Secretary has stated that "in regard to this "excepted' property, in accordance with clause (2) of Art 285 and so long as Parliament does not pass a law under it providing otherwise, the Government of India are liable to pay such local taxes as were being paid from 1st April 1937, in respect of these buildings which existed as Central Government Buildings before that date". In the same letter, the Government of India have gone further and stated that taking a broader interpretation of clause (2) of Art 285, they have decided that with effect from 1--1951, they will pay increased municipal rates in respect of Union Government properties covered by clause (2) of Art 285 where such increase is due either to a general increase in the valuation of such properties or a general increase in the rate of levy, etc

4. Thus, in our opinion, the position as it stands does not admit of either exempting the railway department from payment of taxes or making any deductions. The counter claims which have been put forth by the Railway Department are on the following grounds:

(i) Even though the Mysore South area was included within the limits of the Mysore City Municipality in 1941, the Municipality did not advise the Railways of its having done so and therefore the Railway Department had to continue the sanitation staff till the end of 1949 Therefore, the railway department has claimed that out of the claim made on the railway department, a sum of Rs.~~[illegible]~~ 40,008-5-0 has to be deducted. But the fact that they entertained certain staff between 1941-and 1949 and that the Municipality did not advise them that the area had been included within the city limits, cannot affect the case at all. This area was included in the Mysore City Municipality by a Notification published in the Official Gazette, and a notification

in the Gazette obviously binds all departments of the Government of Mysore, and at the time the notification was published, the Railway Department was also under the Mysore Government It may also be mentioned that at no time before had the fact that sanitary arrangements were being made by the railway department, been intimated to the municipality

(ii) The Railway Department also claims that water charges amounting to Rs 73501-4-0 should also be deducted as water supplied by the Municipality to the Railways, was allocated between the Quarters and the Workshop in the ratio of 1:6, that the Quarters in the Central Workshop area are also buildings whose rental value is less than Rs 200/- except one According to the Railways, the water tax leviable on the 132 Quarters including the Labour Colony for the period 27-1-1941 to end of 1948 works out to Rs 5940/-, and as a sum of Rs 79,441-4-0 has been paid for the period 27-1-41 to end of November 1948, the Municipality will have to pay back Rs 73,501-4-0 This proportion of 1:6 seems to have been based by the Loco Department on the average consumption prior to 1940 This again is inevitable untenable. There is no authority from Government to make such an allocation. The Municipality has been making the supply of water to the Railway Department as a unit and preferring their bills as per rules At this stage, the Railways ~~have~~ can not been heard to say that they apportioned the water that was being given to them in a particular ratio which is unknown to the Municipality The Government have also not been apprised of any such arrangement and no sanction has been obtained from the Government in this behalf either

5. For these reasons, whether based on the legal position or on the facts put forward by the railway department, I am afraid that they have no case As per the awards, the Municipality is entitled to make a claim and the question of counter claims by the Railway Department on the grounds mentioned, is untenable. It may also be mentioned that new buildings have also been constructed by the railway department and these buildings also have not been assessed as yet /

6 In these circumstances, I request you kindly to take the matter up with the Railway Board and point out to them the right or reasonableness of the municipality levying and collecting municipal taxes An early reply will oblige

Yours faithfully,

By Sd/-(N Lakshman Rau)
Municipal Commissioner

15/11/53

Copy
M/s Devaraj & Co
for municipal Commissioner

14

Minutes of the Meeting held in the Chambers of the Municipal Commissioner on Thursday the 6th October 1950 to consider the question of the arrears of mohatarfa taxes due on railway buildings

====

Present:

1 Sri C Narasimha Moorty, Municipal Commissioner
2. " C Narayanaswamy Shetty, Chief Engineer for Railways
3 " S Venkataraman, District Engineer, M.S.Railway
4. The Audit Superintendent, C.M.C ,
5 The Revenue Officer "

1. Arrears in respect of the Central Railway Offices

The Municipal Commissioner informed the Chief Engineer for Mysore Railways that a sum of Rs 8254-8-10 being the arrears of taxes from 1926-27 to the end of December 1937 on the Railway Office buildings was outstanding Still, although bills had been sent repeatedly, ~~the Ch Railway Office~~ the Chief Engineer requested that this need not be mixed up with the claims to which G.O No.RS 813-16 RYF 80 of 48-49 dated 4-8-1948 refers and that a separate communication may be sent to the Railway Department regarding the old arrears It was agreed that a separate reference in respect of the arrears from 26-27 to end of December 1937 may be made separately to the Railway Department, and the Revenue Officer was requested to take necessary action in the matter The Chief Engineer for Mysore Railways stated that this question would be looked into as quickly as possible

The Revenue Officer was further requested to address the Railway Department regarding the taxes due from the Railway Department for the year 1947-48 and 48-49

II. The arrears of mohatarfa taxes in respect of the buildings in Mysore South, Mysore City

The Municipal Commissioner pointed out to the Chief Engineer that the Railway Department had passed for payment only 1/3 of the claims made by the Municipality in respect of taxes due on Railway buildings in Mysore South The Chief Engineer stated that 2/3 claim had been disallowed as the Municipality had not provided amenities such as sanitation, roads, etc , in the Mysore South The Municipal Commissioner invited reference to the assurances given by the General Manager in his letters Nos.A47 and A13839 dated 26-7-1949 and 25-1-1950 respectively, that the taxes claimed by the Municipality would be arranged to be paid, provided the Municipality would examine the claims of the railways on account of the non-provision of certain amenities The Municipal Commissioner stated that the General Manager had agreed that the settlement of the counter claims made by the Railways would not be made a condition precedent to the payment of the taxes claimed by the Municipality The Municipal Commissioner requested that the taxes claimed may be paid as already agreed to by the General Manager and assured that the counter claims preferred by the Railways would be examined expeditiously and that if the claims were found tenable they would be placed before the Municipal Council for acceptance On this assurance the Chief Engineer agreed that he would obtain the approval of the General Manager and arrange paymentof the taxes due in reppect of railway buildingsin Mysore South

The Municipal Commissioner stated that certain further particulars in respect of the counter-claims preferred by the Railway would be necessary and that the formation required would be called for and requested that it might be furnished as early as possible, to facilitate examination of the counter claims

It was finally agreed that the Chief Engineer would arrange payment of the claims of the municipality without waiting for the settlement of the counter claims preferred by the Railway on the assurance of the municipal Commissioner that the Counter-claims

would be examined and dealt with as expeditiously as possible

The Revenue Officer is requested to send a bill for the balance of the payment due from the Railways with particulars for each year

Sd C Narasimha Moorty
==== Municipal Commissioner

"copy"

(T.Lakshman Rau)
Municipal Commissioner.

15-1-53

Letter No A/102/2 MYS 146 dated 18/31st March 1953 from the Regional Engineer, Southern Railway, Mysore, to the Municipal Commissioner, City Municipal Council, Mysore

=====

Subject: Mohatarfa Taxes etc , due on Railway buildings at Mysore South - Counter claims of the Railway Department

=====

With reference to your letter No RY R 2776-77/50 dated the 12th October 1950, on the above mentioned subject, I furnish herewith the particulars required on the points raised therein:

I. SANITATION

1 Even though Mysore South area is reported to have been included within the limits of the Mysore Municipality from 1941, the Municipality did not advise the Railway of its having done so and so, the Railway Department had to continue the Sanitation Staff till the end of 1949, when only the Railway Department came to know that the Mysore City Municipality had included the Mysore South area within its limits, and disbanded its staff on and after 1950

2 & 3 In view of the remarks vide (1) above, these points do not arise

4 The number of dwelling houses was 256 inclusive of temporary quarters and the number of people occupying these was 1280 based on a modest estimate of 5 persons per family No actual statistics are maintained re: the population in the Railway colony

5 An abstract of salaries paid to the sweepers, the cartman and the maistry for looking after the sanitation arrangements for the period 27-1-1941 to August 1949 is enclosed

Full details of names of staff appointed, monthly pay and allowances paid to them etc , are also available for verification by a representative of your department As these statements are unwieldy, copies thereof could not be sent herewith

6 In view of the position having been made clear in (1) above, the question of preferring counter-claims earlier than Jan 1950 did not arise

II. STREET LIGHTING

1 The street lights were installed about 22 years ago at the expense of the Railway Department

2 The depreciated value of the 22 lights has been calculated based at Rs 50/- for each light

However, this claim is not being pressed now and the same may please be deleted

III WATER CHARGES:

1 & 2 Water is being supplied by the Municipality to the Railway Workshops through a meter behind the overhead tank Till 1940 the Railway Loco Department had installed the meters for water supply both to the Railway Workshops and to the Railway Colony

In 1940 the meters were removed From the readings recorded prior to 1940 it is seen that the ratio of water used by the Workshops and the colony was 1:6 and accordingly the water charges billed for by the municipality were allocated in the ratio of 1:6 from 27-1-1941 to 1948-49, vide abstract enclosed

3 Kindly refer to remarks against I(4)

4. No; as it was not considered necessary to do so

5 Kindly refer to remarks against I(6)

The counter claims of the Railway Department are, therefore, as detailed below:-

i	Sanitary (Labour) charges	Rs 40,008	5	0
ii	Water charges	73,501	4	0
	Total	113,509	9	0

As the settlement of the counter-claims is pending disposal for a considerably long period, I shall appreciate it much if necessary action is taken at an early date for the speedy settlement of the claims without further delay - as requested by the General Manager, Southern Railway, Madras, in his letter No M11/6 of 9-1-1952 to your address

=====

"copy"

M. Lakshman Rau

(M. Lakshman Rau)

Municipal Commissioner

M Comm
Hrough th President
City M Council
Mysore

Recovery of Motor Vehicle taxes
in respect of buildings in
Nazarbad and Lashkar Mohalla
Now under th control of th
Garrison Engineer

Sir I wd refer to your letter
no C2C R 199/53/54 dated
30th June 53 on th above subject
I am directed to state that
both in th light of cl(2)
of Art 285 of th Constitution
and th proviso to Sec 64 of
th City Municipalities Act
taxes can be levied on th
buildings in question since tax
is being properly collected
and as No Law seems to have
been passed by th Parliament to th
contrary and now according to
proviso to Sec 64 exemption
could be given only in respect of
those buildings belonging to Govt
which are used solely for public
purposes and in th present instance
th buildings in question are
used for residential purposes

Yours faithfully

for Secy to Govt
Local Admn & Urban Dev

Forwarded for your information
and Necessary action to
Legal Section & Urban
Please refer para 11.

11/11/54

L.dg/5000.
13-2-52, C m 66-53-7 18

3 copies

Draft

To

The Municipal Commissioner,
Mysore City Municipality,
(through the President)

Sir

Subject - Recovery of Mohatarfa taxes in respect of buildings in Nazarbad and Lashkar Mohallas now under the control of the Garrison Engineer

---

With reference to your letter No C2 C R 199/53-54 dated the 30th June 1953 on the above subject, I am directed to ~~furnish for your information and needful action the legal opinion as under:-~~ state as follows

"The question for consideration is whether the ~~Garrison Engineer~~ Buildings in Mysore City which now admittedly belong to the Union Government can be exempted from payment of municipal tax Art 285 of the Constitution is as follows

(1)"The property of the Union shall, save so far as Parliament may by law otherwise provide, be exempt from payment of taxes imposed by a State or by any authority within a State

(2) Nothing in clause (1) shall, until Parliament by law otherwise provides, prevent any authority within a State from levying a tax on any property of the Union to which such property was immediately before the commencement of this Constitution liable or treated as liable so long as that tax continues to be levied in that State "

Proviso to sec 64 of the City Municipalities Act is as follows -

"provided that --

(a) No tax imposed as foresaid other than special sanitary cess or water rate shall, without the express consent of the Government, be leviable in respect of --

(1) any building or part of any building belonging to the Government and used solely for public purposes and rot used or intended to be used for residential purposes or for purposes of profit "

Practically, the entire question has to be decided with reference to Art 285 of the Constitution and proviso to sec 64 of the City Municipalities Act referred to above The ~~Municipal Commissioner~~ Your name, in ~~his~~ your letter dated 30th June 1953 ~~(P A D)~~ ~~has~~ stated ~~as follows:-~~ that it

"~~The~~ Municipal assessment in respect of the above properties were being regularly paid by the Commandant, Mysore State Forces till two years back! That The Mysore State Forces were merged with the Indian Army with effect from 1-4-1951 "

According to cl (2) of Art 285 of the Constitution, until Parliament by law otherwise provides, tax could be collected in respect of buildings of this type inasmuch as tax has been previously collected and as no law seems to have been so far passed by the Parliament to the contrary Again, even according to proviso to sec 64 of the City Municipaliti Act, exemption could be given only in respect of those buildings belonging to Government which are used solely for public purposes,

and according to this proviso, tax could be collected in respect of buildings which are used for residential purposes It is ~~stated by the Administrative Secretariat~~ seen that the buildings in question are used for residential purposes In the circumstances, both in the light of cl (2) of Art 285 of the Constitution and the provisio to sec 64 of the City Municipalities Act, Govt agree that taxes can be levied on the buildings in question

Yours faithfully,

10/-

Secretary to Government,
L S G & Planning Departmer

13/1

Dft /LNS 11/1

It is understood that these buildings have been recently handed over by the ~~Union~~ ~~Govt~~ Defence authorities to the State Govt In view of this, the taxes legally due till the date of transfer may be claimed from the Defence authorities

11/2/54

21

GOVERNMENT OF MYSORE

No L /5000/CM 66-53-3

Mysore Government Secretariat
Municipal Branch,
Dated Bangalore, 13 February 195 4

FROM

The *Secretary to the Government of Mysore*
L S G & Planning Departments

To

The Municipal Commissioner,
Mysore City Municipality,
(through the President)

Sir,

Subject - Recovery of Chhatarfa taxes in respect of buildings in Nazerbad and Lashkar Mohallas now under the control of the Carrison Engineer

---

With reference to your letter No C2 C R 199/53-54 dated the 30th June 1953 on the above subject, I am directed to state as follows -

The question for consideration is whether the buildings in Mysore City which now admittedly belong to the Union Government can be exempted from payment of municipal tax Art 285 of the Constitution is as follows -

"(1) The property of the Union shall, save so far as Parliament may be law otherwise provide, be exempt from payment of taxes imposed by a State or by any authority within a State

(2) Nothing in clause (1) shall, until Parliament by law otherwise provides, prevent any authority within a State from levying a tax on any property of the Union to which such property was immediately before the commencement of this Constitution liable or treated as liable so long as that tax continues to be levied in that State "

2 Proviso to sec 64 of the City Municipalities Act is as follows -

"provided that --

(a) No tax imposed as foresaid other than special sanitary cess or water rate shall, without the express consent of the Government, be leviable in respect of --

(i) any building or part of any building belonging to the Government and used solely for public purposes and not used or intended to be used for residential purposes or for purposes of profit "

Practically, the entire question has to be decided with reference to Art 285 of the Constitution and proviso to sec 64 of the City Municipalities Act referred to above You have in your letter dated 30th June 1953 stated that the Municipal assessment in respect of the above properties were being regularly paid by the Commandant, Mysore State Forces till two years back and that the Mysore State Forces were merged with the Indian Army with effect from 1-4-1951

3 According to clause (2) of Art 285 of the Constitution, until

Parliament by law otherwise provides, tax could be collected in respect of buildings of this type inasmuch as tax has been previously collected and as no law seems to have been so far passed by the Parliament to the contrary Again, even according to proviso to sec 64 of the City Municipalities Act, exemption could be given only in respect of those buildings belonging to Government which are used solely for public purposes, and according to this proviso, tax could be collected in respect of buildings which are used for residential purposes It is seen that the buildings in question are used for residential purposes In the circumstances, both in the light of cl.(2) of Art 285 of the Constitution and the proviso to sec 64 of the City Municipalities Act, Government agree that taxes can be levied on the buildings in question

4 It is understood that these buildings have been recently handed over by the Defence Authorities to the State Government In view of this, the taxes legally due till the date of transfer may be claimed from the Defence Authorities

Yours faithfully,

(V. Hanumanthappa)
for Secretary to Government,
L S G & Planning Departments

LNS 3 11/2

15000/CM 66-53-)

2 2

Municipal Branch,
13 February 54

The

L S G & Planning Departments

The Municipal Commissioner,
Mysore City Municipality,
(through the President)

Sir,

Subject:- Recovery of Mohatarfa taxes in respect of buildings in Nazarbad and Lashkar Mohallas now under the control of the Garrison Engineer

With reference to your letter No C2 C R 199/53-54 dated the 30th June 1953 on the above subject, I am directed to state as follows:-

The question for consideration is whether the buildings in Mysore City which now admittedly belong to the Union Government can be exempted from payment of municipal tax . Art 285 of the Constitution is as follows -

"(1) The property of the Union shall, save so far as Parliament may be law otherwise provide, be exempt from payment of taxes imposed by a State or by any authority within a State

(2) Nothing in clause (1) shall, until Parliament by law otherwise provides, prevent any authority within a State from levying a tax on any property of the Union to which such property was immediately before the commencement of this Constitution liable or treated as liable so long as that tax continues to be levied in that State "

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"provided that --

(a) No tax imposed as foresaid other than special sanitary cess or water rate shall, without the express consent of the Government, be leviable in respect of --

(i) any building or part of any building belonging to the Government and used solely for public purposes and not used or intended to be used for residential purposes or for purposes of profit "

Practically, the entire question has to be decided with reference to Art 285 of the Constitution and proviso to sec 64 of the City Municipalities Act referred to above You have in your letter dated 30th June 1953 stated that the Municipal assessment in respect of the above properties were being regularly paid by the Commandant, Mysore State Forces till two years back and that the Mysore State Forces were merged with the Indian Army with effect from 1-4-1951

3. According to clause (2) of Art 285 of the Constitution, until

Parliament by law otherwise provides, tax could be collected in respect of buildings of this type inasmuch as tax has been previously collected and as no law seems to have been so far passed by the Parliament to the contrary. Again, even according to proviso to sec 64 of the City Municipalities Act, exemption could be given only in respect of those buildings belonging to Government which are used solely for public purposes, and according to this proviso, tax could be collected in respect of buildings which are used for residential purposes. It is seen that the buildings in question are used for residential purposes. In the circumstances, both in the light of cl (2) of the Map of the Constitution and the proviso to sec 64 of the City Municipalities Act, Government agree that taxes can be levied on the buildings in question.

4. It is understood that these buildings have been recently handed over by the Defence Authorities to the State Government. In view of this, the taxes legally due till the date of transfer may be claimed from the Defence Authorities.

Yours faithfully,

(V. Tenumanthaya)
for Secretary to Government,
I.S.G. & Planning Departments

LC 3.11/2